

BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

EARL & M. JAN LEIBEL JENSEN,)	
)	DOCKET NO: IT-1998-1
Appellants,)	
)	
-vs-)	
)	FACTUAL BACKGROUND,
THE DEPARTMENT OF REVENUE)	CONCLUSIONS OF LAW,
OF THE STATE OF MONTANA,)	ORDER AND OPPORTUNITY
)	<u>FOR JUDICIAL REVIEW</u>
Respondent.)	

The above-entitled appeal came on regularly for hearing on the 18th day of July, 2000, in the City of Glendive, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The taxpayers, represented by James W. Lenhardt, certified public accountant, and Earl Jensen, presented testimony in support of the appeal. The Department of Revenue, represented by Edwina Rose, auditor, and Howard Heffelfinger, hearing examiner, presented testimony in opposition thereto.

The Board having fully considered the testimony, exhibits, and all things and matters presented to it by all parties, finds and concludes as follows:

STATEMENT OF THE ISSUE

The taxpayers do not dispute the additional

assessment as a result of audit of the 1989 and 1990 Montana Individual Income Tax Returns. The taxpayers assert that the adjustments made to their 1989 and 1990 Montana Individual Income Tax returns were beyond the statute of limitations, prescribed by Sections 15-30-145 and 146, and are therefore null and void.

The taxpayers also raise the issue of procedural errors made by the DOR.

The amounts due and owing are as follows:

For tax year 1989: tax \$426
interest: \$210.50

For tax year 1990: tax \$436
interest: \$176.20

TAXPAYERS' CONTENTIONS

At the outset of the hearing before this Board, Mr. Lenhardt moved this Board to dismiss the assessment for the reason that the five year statute of limitations expired on April 24, 2000. The date of the hearing before this Board was July 18, 2000 and, therefore, beyond the statute of limitation date cited above. He contended that the DOR had not requested an extension for the tax assessment period. He stated that the extension request is required even if the tax adjustment was determined before expiration. He offered Taxpayers' Exhibit 5, a copy of the United States Tax Court decision dated April 24, 1995 as confirmation that the statute of

limitations ended on April 24, 2000. Exhibit 5 demonstrates that the tax court found "deficiencies in income tax due from the petitioners for the taxable years 1989 and 1990 in the amounts of \$1,744.00 and \$1,136.00, respectively."

Taxpayers' Exhibit 1 is a copy of an October 21, 1997 letter from Edwina Rose to Howard Heffelfinger which contains the DOR's response to the brief filed by the taxpayers' representative, James Lenhardt. This letter addresses the issue of the statute of limitations.

The taxpayers also contend that the DOR erred procedurally regarding the hearing before the DOR hearing examiner. Mr. Lenhardt had requested a hearing in Glendive and informed the DOR that he could participate in the hearing on New Year's Eve, 1996. The December 31, 1996 date was agreed upon, but the location of the hearing was specified to be at the DOR field office in Billings after Mr. Lenhardt's reluctance to hold a telephonic hearing. Shortly prior to the scheduled hearing, Robert Turner, then an employee of the DOR's income tax division, telephoned Mr. Lenhardt's office to confirm his presence at the December 31, 1996 hearing in Billings. Mr. Turner reported that he was told that Mr. Lenhardt was out of the office on a family emergency and that personnel in Mr. Lenhardt's office refused to confirm whether he would be able to attend the hearing. The DOR contended

that Mr. Lenhardt failed to contact the agency to confirm his presence at the hearing. Not wishing to make a futile trip to Billings, and without confirmation from Mr. Lenhardt or his staff of his attendance, Mr. Heffelfinger decided to postpone the hearing to a later date when Mr. Lenhardt's attendance could be assured. The matter was ultimately heard on briefs before the DOR. Mr. Lenhardt contends that the DOR made a unilateral decision to cancel the hearing without conferring directly with him as to his intentions regarding attendance of the hearing. None of the correspondence he received from the DOR indicated that Mr. Lenhardt needed to confirm his intentions to attend prior to the hearing.

DEPARTMENT OF REVENUE CONTENTIONS

Ms. Rose stated that the issue here is the result of the October 10, 1995 receipt of a revenue agent report (RAR) from the Internal Revenue Services (IRS) after an adjustment was made to the taxpayers' federal income tax return. Since the State of Montana is directly tied to federal adjusted gross income by law (Section 15-30-101 (7), MCA), the DOR therefore makes adjustments to Montana income tax returns based on the same information that was applicable during federal audits.

Ms. Rose offered DOR Exhibit B, copies of the pertinent statute, 15-30-146:

The running of the statute of limitations provided for under 15-30-145 shall be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action which has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file a record of changes in the federal taxable income or an amended return as required by 15-30-304, the statute of limitations shall not apply until 5 years from the date the federal changes become final or the amended federal return was filed. . ." (Emphasis supplied.)

There was a change to the taxpayers' federal return.

The IRS reviewed the 1989 and 1990 federal returns, made some changes, and determined the amount of additional federal income taxes due. The taxpayers did not file an amended return with the State of Montana to reflect those federal changes. Section 15-30-304, MCA, requires that, if there is a change by the IRS, the taxpayer should file an amended Montana return. Since the taxpayers did not file an amended Montana return, Section 15-30-146 allows the DOR to make changes comparable to what an amended return would do within five years of the date the federal changes became final. In this case, the federal changes became final on April 24, 1995, the date of the United States Tax Court's determination that additional federal taxes were due and owing for tax years 1989

and 1990. Thus, 15-30-146, MCA, allowed the DOR to make changes to the subject 1989 and 1990 liability until April 24, 2000. However, the DOR made those changes in a much more timely fashion. The RAR (DOR Exhibit C) was received in October of 1995 and the resulting notice of additional assessment was issued by the DOR on May 8, 1996.

In response to the taxpayers' motion to dismiss, Ms. Rose again stated that the issue here is the result of a revenue agent report (RAR), which is received from the Internal Revenue Services (IRS) after an adjustment has been made to a taxpayer's return. Since the State of Montana is directly tied to federal adjusted gross income by 15-30-101 (7), the DOR therefore makes adjustments based on the same information that was applicable during the federal audit. Montana Code 15-30-146 addresses the extension of a statute of limitations in situations where an RAR is involved. So, the DOR has an extended period of time in which to go to forward and adjust a return after an RAR is final. 15-30-146 allows five years from the date that the RAR became final. This RAR was finalized in April of 1995. The DOR would have had until April of 2000 in which to make an adjustment. In this case, the adjustment was made in May of 1996. The DOR received the RAR in October of 1995 and the adjustment was made in May of 1996.

Mr. Heffelfinger testified that he was present at the hearing before this Board solely due to the issue of a procedural error on the part of the DOR, e.g., the cancellation of the December 31, 1996 hearing. Mr. Heffelfinger testified that he had cancelled the hearing.

DOR Exhibit A is a copy of a November 19, 1996 letter from Mr. Lenhardt to Mr. Heffelfinger in which Mr. Lenhardt states that he would be available to hold the informal conference on December 31, 1996. Mr. Heffelfinger was of the opinion that it was not unreasonable to expect some confirmation concerning Mr. Lenhardt's attendance at this hearing "prior to traveling to Billings, Montana in middle of winter. . .in Montana." Mr. Lenhardt countered that he did not believe confirmation was needed. The date, time and location had already been agreed upon and set.

On this subject, Ms. Rose testified that Robert Turner contacted Mr. Lenhardt's office in "mid-December" regarding the December 31, 1996 hearing and was told that Mr. Lenhardt was out of town on a family emergency and that the office staff did not know when Mr. Lenhardt would return. On December 19, 1996, Mr. Turner again contacted Mr. Lenhardt's office, was told Mr. Lenhardt was not in, and that his date of return was unknown. On December 30, 1996, Ms. Rose contacted Mr. Lenhardt and had a conversation with him which "ended on a

very negative note. I felt it was not unreasonable that he could have, after having been out of his office for several weeks, he could have touched base with us after we had made several attempts to contact him . . . So, as a result of that telephone call, and I was the one that said we are not coming for the December 31st, we didn't know that it was still a go. . . , so, I asked for a continuance of the hearing." State's Exhibit D is a copy of a December 30, 1996 letter to Mr. Lenhardt from Ms. Rose in which she stated that the hearing before the DOR would be held in Billings on January 30, 1997.

In this letter, she asked Mr. Lenhardt to confirm by January 13 whether or not he would attend this hearing.

On January 14, 1997 (DOR Exhibit E), Ms. Rose sent a letter to Mr. Lenhardt acknowledging his telephone call on January 13. This letter contains the rationale under which the DOR operated in vacating the December 31, 1996 hearing, including a statement that "Since we did not hear from you, we necessarily presumed the December 31 date was no longer a good time for you. The Department representatives were prepared to travel to Billings, but when we did not hear from your other commitments were made."

The DOR offered numerous other exhibits relating to the increasing animosity between Mr. Lenhardt and the DOR as attempts were made to bring the appeal to hearing, as well as

correspondence regarding the dispute over the expiration of the statute of limitations. Ms. Rose testified that these documents were offered to demonstrate the pattern of delay throughout the proceedings.

The chronology of events transpiring in this appeal is as follows: (from DOR Exhibit T)

October 10, 1995:	Revenue Agent Report (RAR) received from Internal Revenue Service
May 1, 1996:	RAR worked by Brenda Thomas, Tax Examiner
May 8, 1996:	Letter and notice of adjustment sent
May 13, 1996:	Letter received from Mr. Lenhardt indicating objection to the assessment. The basis for the objection was that the period of time to assess additional tax had expired.
May 30, 1996:	Letter from Ms. Thomas to Mr. and Mrs. Jensen, further explaining the Montana Code which authorizes the Department to make changes based on an RAR.
June 12, 1996:	Letter to Brenda Thomas from Mr. Lenhardt received. Letter stated it appeared Ms. Thomas had made statements that appeared to be "personal opinions rather than state law."
June 7, 1996:	Letter to the Jensens from Ms. Thomas, citing the applicable codes and advising taxpayers that no amended returns showing the IRS changes had been received. Copies of applicable Montana Codes sent.
June 24, 1996:	Letter from Mr. Lenhardt to Ms. Thomas, received. Included with that letter was a Power of Attorney form authorizing Mr. Lenhardt to act on the behalf of the Jensens.

June 26, 1996: Ms. Thomas talked to Mr. Lenhardt on the phone. Mr. Lenhardt reiterated points made in prior letter stating adjustment was made out of statute.

July 1, 1996: Letter to Mr. Lenhardt from Ms. Thomas as a follow up to the telephone conversation. Letter addressed information from IRS that indicated the taxpayers had instituted action related to the RAR which suspended the running of the federal statute in October 1993.

Letter also referred to pertinent Montana codes.

July 26, 1996 Letter to Mr. Lenhardt from Robert Turner, Exam Bureau Chief, as a follow up to a telephone conversation between Mr. Turner and Mr. Lenhardt.

Enclosed with the letter were appeal papers for to be returned to the agency upon completion.

Mr. Turner also referenced in that letter the pertinent Montana code related to RAR adjustments.

July 29, 1996 Letter to Mr. Lenhardt from Mr. Turner sent to correct an error noted in the letter of July 26, 1996. Letter also referenced the action taken against the IRS, which suspended the statute of limitations.

August 8, 1996 Completed appeal forms received, stating Mr. Lenhardt would represent the taxpayers and citing Montana Code 15-30-146(3).

August 22, 1996 Hearing request and recommendation from Edwina Rose to Robert Turner completed. The request and recommendation were then sent to you for review and to schedule a hearing time and place. ("you" referring to Howard Heffelfinger hereinafter).

August 30, 1996	<p>Letter from you to taxpayers acknowledging the request for an informal conference. The letter also explained the hearing procedures and noted the possibility of holding a telephonic hearing.</p> <p>Letter requested hearing back from the taxpayers by October 4, 1996, in order to set up a hearing time and place.</p>
November 4, 1996	<p>Follow up letter sent from Mr. Heffelfinger to Mr. and Mrs. Jensen. Letter stated that since you did not hear from them, a hearing time and been set for Friday, December 6, 1996, in the Mitchell Building in Helena.</p>
November 13, 1996	<p>Letter to you from Mr. Lenhardt received, stating that he had not received correspondence from the Department. He referenced his letter of June 20, 1996, in which a Power of Attorney form had been sent.</p> <p>Enclosed with the letter was a copy of the appeal paper that had been sent to the Department in August.</p>
November 14, 1996	<p>Letter from you to Mr. Lenhardt. Letter addressed the copy of the appeal paper that was received on November 13, and noted that the copy was not signed. The appeal form that was received in August was signed by Mr. Jensen.</p> <p>The letter went on to state that since the taxpayer had signed the request for appeal, you assumed that he wished to communicate directly with you.</p> <p>The letter further noted that a request was made to hear back from the Jensens within 30 days of the date of the August 30 letter in order to schedule a hearing.</p>
November 20, 1996	<p>Letter to you from Mr. Lenhardt</p>

acknowledging your letter of November 14. Enclosed was a copy of the appeal form.

Letter also stated that a request had been made to hold the conference in Glendive. The letter also requested that an individual other than a Department employee be assigned to the matter.

Mr. Lenhardt also stated that he would be available on December 31, 1996 and could attend a hearing held in Glendive on that date.

November 27, 1996

Letter from Mr. Turner to Mr. Lenhardt. The letter was to make certain that points raised in the November 20 letter were clear.

The letter stated in part that informal hearings are held in Helena or Billings, with alternative being a telephonic hearing. Mr. Turner further stated that the hearing would be held in Billings in order to afford the Jensens the same treatment that other taxpayers were given when requesting an in-person hearing.

The letter concluded by reiterating the point that the process would save Mr. Lenhardt and the clients considerable time and money if it was conducted via telephone conference. It was further stated that the tax and interest could be paid before January 1, 1997 and if the hearing decision was found in favor of the taxpayers, the Department would refund the tax and appropriate interest.

Mid December, 1996

Mr. Turner called Mr. Lenhardt's office to confirm the date, time and place of the hearing. He was advised by the person who answered the phone that Mr. Lenhardt had been called out of the office due to a family emergency and did not know when he would be back.

December 19, 1996

Mr. Turner called the office again to

verify the hearing time. Again, he was told that Mr. Lenhardt was out of the office.

December 30, 1996 Mr. Lenhardt and Edwina Rose had a telephone conversation, which ended on a negative note. Ms. Rose informed Ms. Lenhardt that he should have confirmed the time and place for the hearing. (He had not called the Department to inform Mr. Turner or you that he was back in the office and still planning on attending a hearing on December 31, 1996.)

As a result of the telephone call, the hearing was continued.

December 30, 1996 Letter sent to Mr. Lenhardt from Ms. Rose confirming the telephone conversation of that day. A second hearing date was scheduled, i.e., January 30, 1997. The hearing was to be held in Billings at the Income Tax Field office at 9:00 a.m.

Ms. Rose requested confirmation of the time and date by January 13, 1997. She also informed Mr. Lenhardt that you would be the hearing examiner.

January 14, 1997 Ms. Rose sent Mr. Lenhardt a letter to acknowledge a phone call received from him the day before. The intent of the letter was to clarify and address some of the scheduling difficulties that had occurred.

The letter also addressed the fact that since the agency had not heard from Mr. Lenhardt or someone in his office, that an assumption was made that December 31, 1996 was no longer a good time to hold the hearing.

It was also stated that the agency could postpone the hearing until after April 15, 1997, since Mr. Lenhardt had indicated that his schedule was full during tax filing season.

January 15, 1997 Letter from Mr. Lenhardt to you addressing the content of Mr. Turner's letter of November 27, 1996. Also stated in that letter was his contention that a serious procedural error had occurred.

Mr. Lenhardt further stated that you would have no choice but to issue an order dismissing the case in favor of the taxpayers. A further statement that the Department's action or inactions should indicate a forfeit by the Department.

January 15, 1997 Letter from you sent to Mr. Lenhardt to acknowledge the letter received that day. You addressed the issues that Mr. Lenhardt described as procedural errors and his belief that the hearing date had been changed without consultation with him.

Also in the letter was language to indicate that the agency would work with him to hear the case and to resolve the issues. However, it was clear that a "pattern of delay" was developing in this case.

January 27, 1997 Letter sent from you to Mr. Lenhardt confirming a telephone conversation of that day. Apparently, it was agreed to continue the hearing until after April 15, 1997.

Again, it was made clear that a hearing could be conducted on the telephone, thus saving time and voiding the need for travel for Mr. Lenhardt and his clients.

May 19, 1997 Letter from Mr. Lenhardt to you advising you that Mr. Jensen had accepted employment outside the state of Montana and was unsure of the date that he would return to Montana from Louisiana.

Mr. Lenhardt also asked forward a list of dates that would be convenient for the

hearing. He stated that he would forward that information to his client with the intent of determining when Mr. Jensen would be available, and a hearing date could be set once he heard from Mr. Jensen.

May 21, 1997

Letter from you to Mr. Lenhardt acknowledging receipt of the May 19 letter. Emphasis was put on the desire to be accommodating to Mr. Jensen since he was out of the state.

A suggestion was made in that letter to conduct a conference call. A call could be made, have Mr. Jensen on the line in Louisiana, Mr. Lenhardt in Glendive and a Ms. Rose representing the agency.

June 25, 1997

Letter received from Mr. Lenhardt regarding Mr. Jensen's work schedule in Louisiana. The letter indicated that Mr. Jensen would be working 2 weeks on and then have 2 weeks off beginning in February, 1998.

July 11, 1997

Letter from Jeff Miller to Mr. Lenhardt acknowledging receipt of June 25 letter. Mr. Miller indicated the hearing could be conducted on the telephone, even though Mr. Jensen was out of the state.

It was further stated that if a three way telephone conference was not agreeable, then the hearing could be conducted by briefs. The briefing method was described. Mr. Miller requested Mr. Lenhardt's cooperation in getting the issue resolved and requested that he contact that he contact either himself or you by July 30, 1997 to advise which course of action would be taken.

August 21, 1997

Briefing schedule sent to Mr. Lenhardt.

Exhibit T also contains the DOR position that, even

if procedural errors did occur, or miscommunication occurred, the DOR tried very hard to accommodate Mr. Lenhardt and the Jensens.

DOR Exhibit I is a copy of the hearing examiner's Findings of Fact, Conclusions of Law and Order upholding the DOR position in this matter.

BOARD DISCUSSION

Mr. Lenhardt contended that the DOR had not requested an extension for the tax assessment period and stated that the extension request is required even if the tax adjustment was determined before expiration. He did not, however, cite the legal authority for the alleged requirement. The Board notes that the applicable statutes, Sections 15-30-145 and 146, MCA, contain no reference to the requirement that the DOR request an extension of a tax assessment period from the affected taxpayer.

In fact, the record indicates confusion on the part of Mr. Lenhardt as to which date actually governs the statute of limitations in this case. At one point he argues that April 24, 2000 was the cut-off date for amending the 1989 and 1990 returns: "It did not occur to me, actually, until I read their letter [the October 21, 1997 letter from Edwina Rose to Howard Heffelfinger in which she stated that the statute of limitations was April 24, 2000 based on the April 24, 1995

decision of the United State Tax Court] that the statute of limitation had expired . . .” At another point, he contends that the May 8, 1996 audit assessment “was beyond the statute of limitations at that time, the five year period . . .” Is Mr. Lenhardt arguing that the statute of limitations for the tax years in question expired on April 24, 2000, or April 15, 1995 (for tax year 1989), or April 15, 1996 (for tax year 1990)? Mr. Lenhardt appears to be grasping at any date which will bolster his argument.

Clearly, the DOR has the authority to amend any return if it believes a taxpayer’s return is incorrect in any essential respect. (Section 15-30-145(1), MCA) There is a time frame prescribed during which the DOR may do so. Section 15-30-145 (3), MCA, provides “. . . the amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing.”

There are provisions in the law for extending the five year statute of limitations under which the DOR can amend a return. These provisions are found in 15-30-146:

15-30-146. Tolling of statute of limitations. The running of the statute of limitations provided for under 15-30-145 shall be suspended during any period that the federal statute of limitations for collection of federal income tax has

been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action which has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file a record of changes in the federal taxable income or an amended return as required by 15-30-304, the statute of limitations shall not apply until 5 years from the date the federal changes become final or the amended federal return was filed. . ." (Emphasis supplied.)

The IRS found deficiencies in the taxpayers' 1989 and 1990 federal returns. The issue was ultimately determined through litigation within the United States Tax Court, which issued its final decree on **April 25, 1995**, finding deficiencies due and owing for the tax years in question. The record indicates that the taxpayers did not file an amended return with the State of Montana to reflect those federal changes. Section 15-30-304, MCA, requires that, if there is a change made by the IRS, the taxpayer must file an amended Montana return. Since the taxpayers did not file an amended Montana return, Section 15-30-146 allowed the DOR to make changes comparable to what an amended return would do, within five years of the date the federal changes became final. In this case, the statute of limitations expired on **April 24, 2000**. The DOR issued a revised assessment on **May 8, 1996**, well before April 24, 2000. There is nothing in

the record to substantiate the taxpayers' claim that anything more than the May 8, 1996 revised assessment was required of the DOR in order to live within the restriction of the statutorily imposed statute of limitations.

The taxpayers also argue that the DOR's cancellation of the December 31, 1996 hearing in Billings constitutes a grievous procedural error which should render its assessment null and void. Procedural due process rights are in place to assure that person be afforded the opportunity to notice and the right to be heard in any action affecting his/her rights or property. Klundt v. State ex re. Board of Personnel Appeals, 219 Mont. 347, 712 P.2d 772 (1986). The record contains no indication that the taxpayers were **ever** denied their due process rights through procedural errors made by the DOR.

This Board has considerable experience in scheduling and conducting hearings throughout the state. Once an appeal is set for hearing, it operates under the assumption that the hearing will take place, unless it learns something to the contrary **directly** from either party, or unless it finds it necessary to cancel a hearing due to circumstances arising from the Board's office. The Board finds it, perhaps, somewhat presumptuous on the part of the DOR to elect to cancel the December 31, 1996 hearing without **direct** contact

with Mr. Lenhardt and/or the taxpayers. The DOR apparently made an assumption based solely upon contact with office staff. However, there is no authority or justification for this Board to render the subject assessment null and void based upon that action.

The Board reaches a similar conclusion regarding a second issue concerning communications between the DOR and the Jensens, directly, after Mr. Lenhardt was designated as their legal representative. Again, the record does not indicate that the taxpayers were prejudiced by such direct correspondence or that they were denied procedural due process.

CONCLUSIONS OF LAW

1. The taxpayers' motion to dismiss assessment is hereby denied.

2. The Board has jurisdiction in this matter pursuant to Section 15-2-302, MCA.

3. If, in the opinion of the Department, a taxpayer's return is incorrect in any essential respect, it may revise the return. . . the amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. **Sections 15-30-145 (1) and (3), MCA.**

4. . . .If the amount of a taxpayer's taxable income is changed or corrected by the United States internal revenue service or other competent authority, the taxpayer shall file an amended Montana return with the department within 90 days after receiving notice of the change or correction. . .**Section 15-30-304, MCA.**

5. . . .If the taxpayer fails to file a record of changes in federal taxable income or an amended return as required by 15-30-304, the statute of limitations shall not apply until 5 years from the date the federal changes become final or the amended federal return was filed. **Section 15-30-146, MCA.**

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the adjusted taxes and interest assessed are properly due and owing. The appeal of the taxpayers is hereby denied and the decision of the Montana Department of Revenue is hereby affirmed.

DATED this 31st day of July, 2000.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

(S E A L)

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 31st day of July, 2000, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

James Lenhardt
Certified Public Accountant
P.O. Box 1130
Glendive, Montana 59330

Edwina Rose
Auditor
Income and Miscellaneous Tax Division
Department of Revenue
Mitchell Building
Helena, Montana 59620

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

DONNA EUBANK
Paralegal